

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE JPMORGAN CHASE & CO. SHAREHOLDER :  
DERIVATIVE LITIGATION :  
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This Document Relates to: :  
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ALL ACTIONS :  
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MASTER FILE  
08 Civ. 974 (DLC)

ORDER

DENISE COTE, District Judge:

On April 22, 2008, the parties in the shareholder derivative actions numbered 08 Civ. 974 and 08 Civ. 975 submitted a stipulation and proposed order consolidating these two actions and appointing Robbins Umeda & Fink, LLP ("Robbins Umeda") -- the law firm representing the named plaintiff in 08 Civ. 974, James Shroff ("Shroff") -- as Lead Counsel for the plaintiffs in these actions. This application was not supported by submissions regarding the qualifications of Robbins Umeda to act as Lead Counsel. In addition, at a conference with the parties on May 7, counsel from Robbins Umeda indicated that he had had limited contact with Shroff regarding these actions, had never met with him in person, and could not provide basic biographical information about him. Accordingly, an Order of May 8 directed Robbins Umeda to provide documentation regarding (1) its qualifications to act as Lead Counsel, and (2) Shroff's qualifications to maintain this derivative action under Rule

23.1, Fed. R. Civ. P. (A separate Order of May 8 consolidated these actions.)

On May 16, 2008, Robbins Umeda submitted a declaration regarding the firm's qualification to act as Lead Counsel; a letter of that date informed the Court, however, that "due to scheduling difficulties, we have been unable to procure Mr. Shroff's declaration at this time." By letter dated May 23, Robbins Umeda indicated that it would be moving to dismiss Shroff from this action because he is an "elderly investor" who "does not have the time necessary to devote to this litigation." The letter further indicated that Robbins Umeda would be filing a notice of appearance on behalf of Robert Garber ("Garber"), the named plaintiff in 08 Civ. 975, and seeking to be appointed as Lead Counsel with his support.<sup>1</sup>

On May 23, Robbins Umeda filed a notice of appearance on behalf of Garber and a declaration from Garber in support of Robbins Umeda's application for appointment as Lead Counsel. Garber's declaration indicates that Garber has previously retained Robbins Umeda in three shareholder derivative actions brought between 2005 and 2008. The declaration does not address whether Garber "fairly and adequately represent[s] the interests of the shareholders or members who are similarly situated in

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<sup>1</sup> The parties have submitted a stipulation and proposed order voluntarily dismissing Shroff's claims without prejudice.

enforcing the right of the corporation" at issue here. Rule 23.1(a), Fed. R. Civ. P. Accordingly, it is hereby

ORDERED that, on or before June 27, 2008, the defendants shall depose Garber regarding (1) his qualifications to maintain this action under Rule 23.1, (2) the history of his involvement in this litigation, and (3) the history of his relationship with Robbins Umeda. See Carmona v. Paulson, No. 05 Civ. 9327 (S.D.N.Y. Nov. 6, 2007) (memorandum endorsed letter permitting Garber to be substituted as "nominal shareholder representative" in shareholder derivative action). Cf. Egelhof v. Szulik, No. 04 CVS 11746, 2008 WL 352668 (N.C. Super. Ct. Feb. 4, 2008).

IT IS FURTHER ORDERED that, on or before June 27, 2008, defendants are permitted, but not required, to depose Shroff regarding (1) the history of his involvement in this litigation, and (2) his prior relationship with Robbins Umeda.

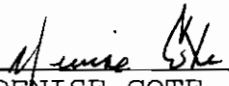
IT IS FURTHER ORDERED that, on or before July 3, 2008, the parties shall provide the Court with a copy the transcript of any deposition taken pursuant to this Order.

IT IS FURTHER ORDERED that, on or before July 3, 2008, Robbins Umeda shall provide the Court with a list of all cases in which the firm, or any member of the firm, has been sanctioned during the last ten years. A copy of any opinion or order issued regarding such sanctions shall also be included in the submission.

IT IS FURTHER ORDERED that the parties shall appear for a conference with the Court on July 9, at 10 a.m., at the United States Courthouse, 500 Pearl Street, New York, New York, in Courtroom 11B.

SO ORDERED:

Dated: New York, New York  
June 9, 2008

  
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DENISE COTE  
United States District Judge